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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Second periodic reports of States parties due in 1987

Addendum

JORDAN */

[18 December 1989]

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*/ For the initial report submitted by the Government of Jordan, see CCPR/C/1/Add.24; for its consideration by the Committee, see CCPR/C/SR.103 and Official Records of the General Assembly, Thirty-third session, Supplement No. 40 (A/33/40), paras. 399-408. For the supplementary reports by the Committee, see CCPR/C/SR.331 and 332 as well as CCPR/C/SR.361 and 362 and Official Records of the General Assembly, Thirty-seventh session, Supplement No. 40 (A/37/40), paras. 166-213.

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1. Pursuant to the provisions of article 40, paragraph 1, of the International Covenant on Civil and Political Rights, which has been ratified by the Jordanian Government, under which "the States parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights", the Ministry of Foreign Affairs of the Hashemite Kingdom of Jordan has the honour to submit Jordan's second periodic report to the Commission on Human Rights.

Article 1

2. With regard to the right of peoples to self-determination, Jordan is committed to the right of self-determination and the positions that it adopts at the United Nations and other international forums are based on support for this right. In fact, Jordan recently demonstrated its commitment to the right of self-determination when it announced its decision to sever its administrative and legal links with the West Bank. It is therefore one of the few countries of the world in which the right of self-determination has prevailed over the principle of territorial sovereignty and integrity.

3. Care was taken to ensure that the decision to sever links with the West Bank would apply to the territory of the West Bank and not to Jordanian citizens of Palestinian origin, i.e. it had territorial rather than personal implications. Consequently, Jordanian citizens of Palestinian origin living in the East Bank enjoy the same rights and have the same obligations as other citizens, in accordance with article 6 of the Jordanian Constitution, which stipulates that Jordanians are equal in regard to their rights and obligations.

4. The 1988 statistics of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) indicate that 870,490 Palestinian refugees were registered and living in the East Bank, distributed among 10 camps in various parts of the Kingdom. The Jordanian Government, in collaboration with UNRWA, is providing them with all the educational, health and other services and facilities that they require.

5. The Jordanian Government has made every endeavour to ensure that Palestinians living in the West Bank are treated equitably in the same way as those living in Jordan. To this end, it is still providing them with financial assistance to enable them to stay in the West Bank, thereby thwarting Israel's constant attempts to expel them from their homeland. From the legal and political standpoints, Jordan's policy in this regard is in keeping with the provisions of article 1 of the Covenant.

6. The international conventions to which Jordan accedes and which it ratifies have the force of law and prevail over all domestic legislation, with the exception of the Constitution. The Jordanian courts therefore give these international conventions precedence over domestic legislative enactments unless public order would be jeopardized thereby. Most of the provisions of the Covenant are embodied in Jordanian legislation to a certain extent. This was confirmed by ruling No. 32/82, handed down by the Court of Cassation on 6 February 1982, to the effect that international covenants and conventions take precedence over domestic law.

Article 3

7. With regard to article 3 of the Covenant (equality between men and women), under the provisions of the Constitution, Jordanians are equal before the law, without discrimination in regard to rights and obligations; every Jordanian has access to public office on the conditions stipulated by the law or regulations; all Jordanians have the right to work and the State ensures the availability of work for Jordanians through its guidance and development of the national economy.

8. Article 3 (a) of Act No. 22 of 1986, concerning elections to the House of Representatives, provides for the right to vote:

> "Every Jordanian who has attained the age of 19 Gregorian years shall have the right to elect members of the House of Representatives, provided that his name has been entered in one of the final electoral registers."

In this connection, the term "Jordanian" refers to any Jordanian citizen, whether male or female. Article 19 of the Act stipulates that:

> "Any person can stand as a candidate for election to the House of Representatives in a single constituency."

9. Under the amendment to the Municipalities Act promulgated in 1982, women are also eligible to vote and stand as candidates in elections to municipal and village councils.

10. Under the Nationality Act No. 6 of 1954, Jordanian nationality is granted to: anyone born to a father holding Jordanian nationality; anyone born in the Kingdom to a mother holding Jordanian nationality and a father of unknown or foreign nationality, or whose paternity has not been legally established.

11. Article 4, paragraphs (a) and (b), of the Passport Act No. 2 of 1969, makes no distinction between men and women in regard to the right to leave and return to the country. In fact, both men and women have the right to leave and to return, provided that they hold a valid passport issued in accordance with the provisions of the Act.

12. The Jordanian Labour Act No. 21 of 1960, as amended, guarantees equal rights between men and women, both being entitled to equal pay for equal work. In fact, the Act contains a number of provisions to protect working women in view of their social situation and physiological constitution. Under article 46 of the Act, no woman is permitted to work in an occupation that is classified as dangerous. Article 47 prohibits the employment of women on night-work between 7 p.m. and 6 a.m. The Public Health Act No. 21 of 1972 stipulates that the Ministry of Health is responsible for providing preventive and therapeutic medical services and health insurance for all citizens, without discrimination.

13. The Civil Status Act No. 61 of 1976 affirms the equality of men and women in all matters relating to civil status. Under article 4 of the Act, a woman has the right to break off her engagement in the same way as a man and also enjoys equal rights in other matters relating to marriage.

14. The Jordanian Civil Code of 1976 regulates numerous matters, including the right to own property. Articles 1,018 and 1,020 of the Code stipulate that property rights in Jordan are not confined to a particular social group to the exclusion of others and that every Jordanian is entitled to exercise the right to own property.

15. Under the Constitution, the State is duty-bound to do everything in its power to ensure equal opportunities in regard to education, which has been made compulsory and is provided free of charge at government schools. The provisional Education Act No. 27 of 1988 stipulates as follows:

Article 3, paragraph (c) (i):

"Jordanians are equal in regard to their political, social and cultural rights and obligations. They are distinguished by the extent of their devotion and attachment to their society."

Article 3, paragraph (c) (vi):

"Education is a social necessity and a right to which all persons are entitled, in accordance with their individual aptitudes and abilities."

16. These and other provisions of the Act clearly show that all sections of the population enjoy the same privileges in regard to enrolment at government and private schools, regardless of race, colour, religion or sex.

17. The provisions on education also apply to secondary and university education, in which all persons are granted opportunities commensurate with their abilities and predilections, regardless of any other consideration.

18. A number of legislative enactments confirm the equality of men and women in all spheres of life. In fact, Jordanian women have made noteworthy achievements in science, culture, national service and the furtherance of the country's development and progress and have attained high standing in several fields. They now engage in almost all the types of work performed by men, particularly in the Civil Service, commerce and the various liberal professions. They also pursue military careers in the armed forces and public security services.

Article 4

19. With regard to the state of emergency, article 124 of the Constitution stipulates:

"If it becomes necessary to defend the realm during an emergency, a legislative Act, known as the Defence Act, shall be promulgated, under which a person designated in the Act shall be empowered to take such action and measures, including suspension of the ordinary laws of the State, as may be necessary to ensure the defence of the realm. The Defence Act shall enter into force as soon as it is proclaimed in a royal decree issued on the basis of a decision of the Council of Ministers."

20. The administrative regulations promulgated under the martial law provisions empower the Military Governor-General to exercise all the functions assigned to him by the King for the purpose of defending the country and

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protecting its security. The Military Governor-General may order the arrest of any person without preferring a specific charge against him. However, if the arrested person is indicted, he must be brought before a court after being questioned by the military prosecutor. Persons who appear before a military court are not subjected to any form of discrimination, since they enjoy the right to be represented and defended by a lawyer. If they are unable to pay a lawyer's fees, the court automatically appoints a lawyer to defend them.

21. Although these exceptional powers vested in the Military Governor-General, who also holds the post of Prime Minister of the Kingdom, may be regarded as a derogation, he takes his decisions after consulting highly experienced legal advisers. Moreover, any sentence passed by a military court may be either upheld or commuted.

22. The military courts have jurisdiction in cases involving offences against State security, the disclosure of official secrets or confidential documents, the unauthorized possession or use of firearms, membership of a banned political party, collaboration with the enemy, infiltration, the sale of property to the enemy and any other cases referred to them by order of the Military Governor-General or his authorized representative.

23. The declaration of the state of emergency was necessitated by the state of war with Israel, which is still continuing, as well as by the situation in the region as a whole. Consequently, the present time cannot be regarded as appropriate for the abolition of the state of emergency. However, the situation is being monitored closely by the Jordanian Government.

Article 6

24. The right to life is protected by Jordanian law, under which any violation is punishable.

25. The Jordanian Penal Code (Act No. 16 of 1960) defines the circumstances in which the death penalty can be imposed:

(a) For offences against the external security of the State:

Article 110, paragraph 1: "Any Jordanian who, having joined the ranks of the enemy, bears arms against the State shall be liable to the death penalty."

Article 112: "Any Jordanian who engages in collusion, or enters into contact, with the enemy, with a view to contributing in any way to the triumph of the enemy's forces over the State shall be liable to the death penalty."

Article 113, paragraph 1: "Any Jordanian who in any way damages installations, factories and ships ... with a view to hampering national defence shall be punished by hard labour for life." Paragraph 2: "The death penalty shall be imposed if the act is committed in time of war, at a time when the outbreak of war is imminent, or if the act leads to the loss of human life."

Article 120: "Any person who, within the Kingdom and without the approval of the Government, recruits troops to fight on behalf of a foreign State shall be liable to imprisonment for a fixed term. If the said foreign State is an enemy, the offence shall be punishable by death."

(b) For offences against the internal security of the State:

Article 135, paragraph 1: "Any person who makes an assault on the life or liberty of His Majesty the King shall be liable to the death penalty."

Article 136: "The death penalty shall be imposed on any person attempting to change the Constitution of the State by unlawful means."

Article 137: "1. Any act committed with a view to inciting armed rebellion against the authorities established in accordance with the Constitution shall be punishable by death. 2. In the event of the outbreak of a rebellion, both its instigator and the participants therein shall be liable to the death penalty."

Article 138: "Any felonious attempt to prevent the established authorities from exercising their functions in accordance with the Constitution shall be punishable by death."

Article 148: "4. The death penalty shall be imposed if the act [terrorism] leads to the loss of human life or the partial or total destruction of a building occupied by one or more persons."

(c) For offences against persons (wilful or premeditated murder):

Article 328: "Murder shall be punishable by death: if it is committed with malice aforethought; if the victim of the crime is one of the perpetrator's ascendants.

(d) In the case of criminal conspiracy and illegal association:

Article 158, paragraph 3: "Any participants therein who, during the commission of the offence, commit murder or inflict torture or barbarous treatment on the victim or victims shall be liable to the death penalty."

26. The regular courts have jurisdiction over all persons in all civil and criminal matters, including proceedings brought by or against the Government, with the exception of matters in which jurisdiction may be assigned to religious courts or special courts under the provisions of the Constitution (art. 102).

27. In addition to the regular courts, there are also military courts, which have jurisdiction in cases involving the following offences:

(a) Offences against the internal or external security of the State;

(b) Offences against public security;

(c) Offences involving contact and collaboration with the enemy, infiltration and smuggling, excluding infringements of the provisions of the Customs and Excise Act of 1936;

(d) Offences involving membership of banned or unauthorized parties;

(e) Non-compliance with orders issued by the Military Governor-General or local military governors;

(f) Non-compliance with the provisions of the Defence Act or any regulation or order promulgated pursuant thereto, with the exception of the Import Regulations (Act No. 7 of 1941) and the Import and Export Control Regulations (Act No. 5 of 1942);

(g) Acts of resistance to or aggression against civil servants or officers or members of the armed forces or the police during, or by virtue of, their discharge of their official duties;

(h) Any punishable act or infraction which is added to the above list of offences under the terms of an order promulgated by the Military Governor-General and published in the Official Gazette. (It was decided to add offences against the provisions of the Repression of Communism Act No. 31 of 1953.)

28. The military court begins its hearing, in the presence of the accused, by listening to the statement of the military prosecutor, which includes a summary of the charge brought against the accused, after which the accused is permitted to make a statement. The court then hears the witnesses for the prosecution, who can be cross-examined by the accused, after which the witnesses for the defence, if any, are heard. Finally, after hearing the defence of the accused, the court hands down its judgement. The hearing is held in public, unless the court decides otherwise for a specific reason. Following ratification in accordance with administrative instructions (arts. 18 and 19), the judgements of the military court are regarded as final and enforceable forthwith. They are not subject to review by any court, including the Supreme Court of Justice.

29. A military court may pass sentence of death in the above-mentioned cases, provided that they have been referred to it by the Military Governor-General in accordance with the provisions of the law. A military court may also pass sentence of death on habitual offenders against the legislation on narcotics, regardless whether their offences have been committed in or outside Jordan, in accordance with article 8 of Act No. 11 of 1988, concerning narcotics and other psychotropic substances.

30. Although five persons sentenced to death were executed in 1988, no death sentence has been carried out during 1989.

31. Following this review of the death penalty and the circumstances in which it can be imposed, it must be indicated that there is a possibility of amnesty in the form of a general amnesty or a special pardon.

32. Article 50 of the Jordanian Penal Code of 1960 stipulates as follows:

"1. General amnesties are proclaimed by the legislative authority.

"2. A general amnesty abolishes the criminal consequences of an offence."

Article 51, entitled "Special pardon", stipulates that:

"1. Special pardons may be granted by His Majesty the King on the basis of a substantiated recommendation by the Council of Ministers.

"2. Special pardons, which shall be personal, may have the effect of annulling, commuting or remitting all or part of the penalty."

33. A penalty may also be commuted if specific conditions are met. Under article 99 of the Penal Code: "If mitigating circumstances are established in a particular case, the court may:

"Commute a death penalty to hard labour for life or hard labour for a period of 10 to 20 years;

"Commute a penalty of hard labour for life to hard labour for a period of not less than eight years, or commute a penalty of life imprisonment to imprisonment for a period of not less than eight years;

"The court may also reduce any other criminal penalty by half."

34. Article 17, paragraph 2, of the Jordanian Penal Code of 1960 stipulates that:

"If it is established that a woman sentenced to the death penalty is pregnant, the sentence shall be commuted to hard labour for life."

35. Article 358 of the Code of Criminal Procedure (Act No. 9 of 1961) stipulates that:

"If His Majesty the King ratifies the death sentence, the person sentenced thereto shall be hanged within the premises of the prison or at any other place specified in the royal decree."

36. The death sentence may not be carried out on any of the convicted person's religious festivals or on an official public holiday, nor may it be carried out on a pregnant woman until three months after her delivery. Although this penalty is prescribed by law, it has not as yet been carried out on a pregnant woman. In fact, even after it has become final, this penalty normally requires ratification through the promulgation of a royal decree.

Article 7

37. Article 7 of the Jordanian Constitution stipulates that: "Personal freedom shall be safeguarded." Article 208 of the Jordanian Penal Code of 1960 further stipulates that:

"1. Anyone who subjects a person to any form of violence or coercion prohibited by law with a view to obtaining a confession to a crime, or information relating thereto, shall be punished by imprisonment for a term of three months to three years.

"2. If such acts of violence or coercion lead to sickness or injury, the penalty shall be imprisonment for six months to three years, unless such acts call for a more severe penalty."

38. Any person detained or imprisoned by order of an administrative authority has the right to appeal to the courts against the order, except in cases, such as those involving espionage, in which it is imperative to place the prisoner in solitary confinement. A detainee is entitled to receive visits from his lawyer and, if he is detained for a long period of time, he is entitled to receive visits from members of his family, regardless of the length of his sentence.

39. With regard to the rehabilitation of offenders, the Government has established rehabilitation and reform centres in the northern, central and southern parts of the Kingdom. These centres include craft workshops in which the convicts are trained in weaving, the manufacture of textiles, carpentry, metalworking, painting, accountancy, bookbinding and printing. They can also be trained in animal husbandry and farm management. The main purpose in establishing these centres has been to rehabilitate prisoners so that they can lead a normal life, since the prevailing principle in Jordan is that its citizens are the country's most valuable asset and must be safeguarded under all circumstances.

40. Under article 8 of the Constitution, no person may be arrested or detained unless he has been charged with committing an offence. Persons suffering from mental disorders that might induce them to disturb public order may be arrested, but only for the purpose of placing them in institutions in which they will receive every possible form of appropriate treatment.

41. In this connection, it should be noted that any person who has been arrested or remanded in custody may appeal to the Supreme Court. If the Supreme Court rules that his arrest or remand in custody was unlawful, he must be released without delay. However, in some cases for which specific provision has been made, such as cases of murder or patricide, the accused cannot be released and cannot appeal against the legality of his arrest. At all events, an order must be issued by a representative of the Department of Public Prosecutions before a person under arrest can be referred to the official responsible for the pre-trial procedures, who determines whether the arrest of the person concerned was lawful. The Government cannot be sued for damages arising from unlawful arrest. However, if the person concerned was arrested as a result of a false defamatory statement, the person who made the false statement against him can be sued for damages in respect of the harm sustained.

42. Jordanian law permits the granting of bail as a precautionary measure. Articles 32 to 34 of the Penal Code deal with the question of bail and define the circumstances in which it may be required as follows:

> "(a) If the accused has been previously convicted of threatening or intimidating behaviour;
>
> "(b) If the accused has been previously convicted of incitement or attempting to commit an offence;
>
> "(c) If there is cause to fear that a convicted person may harm the victim, a member of the victim's family or their property."

43. Article 123, paragraph 1, of the Code of Criminal Procedure stipulates that:

> "Release on bail shall not be granted in the case of a person who has been accused or convicted of an offence punishable by the death penalty, hard labour for life or life imprisonment."

44. Article 121 of the Code stipulates as follows:

> "1. Any person charged with a misdemeanour may be released on bail, by order of the public prosecutor. The court may also decide to release the accused on bail after the case has been referred to it or during the trial.
>
> "2. If the maximum penalty that can be imposed in respect of the misdemeanour is a one-year term of imprisonment, and provided that the defendant has a place of domicile in the Hashemite Kingdom of Jordan, the public prosecutor may release him on bail five days after he has been questioned. The provisions of this paragraph shall not apply to a person who has been previously convicted of a felony or sentenced to a term of more than three months' imprisonment."

45. Persons serving sentences at reformatories and rehabilitation centres are treated in a fully humanitarian manner, in accordance with the principle that convicts are nevertheless citizens of the country and sick members of society, who require help so that they can be cured and rehabilitated after learning a lesson from their mistake and after receiving training in an honest occupation that could help them to earn a living in a self-reliant manner.

Articles 9 and 10

46. The Penal Code of 1960 makes provision to safeguard the rights set out in these articles. For example, article 178 stipulates that:

> "Any official who arrests or imprisons a person on grounds other than those provided for by law shall be punished by imprisonment for a term of three months to one year."

Article 179 further stipulates that:

> "Any warden or guard of a prison or correctional or reform institution, or any official assuming their functions, who admits a person without a legal warrant or court order, or who detains a person for longer than the prescribed term, shall be punished by imprisonment for one month to one year."

47. Prisons in Jordan, which are now known as reform and rehabilitation centres, are divided into two types:

(a) Remand centres, which accommodate persons on whom final judgement has not been passed by a competent court;

(b) Centres for the accommodation of convicted persons who have been sentenced to imprisonment by a competent court.

The centres are situated in the three principal regions of the Kingdom (the Qafqafa Centre in the north, the Birein Centre in the central region and the Sawaqa Centre in the south).

48. These centres are regularly inspected by the competent authorities in order to ascertain all aspects of the situation of their inmates. The Government is also preparing to enact new legislation concerning prisons (reform and rehabilitation centres), which has been submitted to the Council of Ministers for approval and ratification.

49. Older legislative enactments are still in force, such as article 104 of the Code of Criminal Procedure of 1961, which stipulates that:

> "Prisons and places of detention shall be designated and regulated by legal instruments."

Article 105 of the Code further stipulates that:

> "No person shall be detained except in prisons established for that purpose. The warden of a prison shall not admit any person thereto except on the basis of an order signed by the competent authority and shall not retain any person beyond the period specified in that order."

Under article 107:

> "Every detainee or prisoner has the right to complain at any time, in writing or verbally, to the warden of the prison and to request that his complaint be transmitted to the Department of Public Prosecutions. The warden must accept and immediately transmit such complaint after recording it in a register maintained for that purpose in the prison."

Under article 108, paragraph 1:

> "Anyone who knows of a person who is detained or imprisoned in an unlawful manner, or at a place that is not intended to be used for purposes of detention or imprisonment, must notify a member of the Department of Public Prosecutions, who must go immediately to the place in which the person concerned is being detained or imprisoned, where he shall conduct an investigation and order the release of the person who is thus being detained or imprisoned unlawfully. He must also write a full report in this connection."

Paragraph 2 provides:

> "If they neglect to do so, they shall be considered accomplices to the offence of deprivation of personal liberty and shall be prosecuted as such."

50. Persons suffering from mental disorders that might induce them to disturb public order may be arrested, but only for the purpose of placing them in institutions in which they will receive every possible form of appropriate treatment.

51. Article 233, paragraph 1, provides:

> "If the court finds that, at the time of commission of the offence with which he is charged, the accused was suffering from an illness that diminished his mental faculties and rendered him incapable of realizing the nature of his acts, or of understanding the criminal nature of their commission or omission, the accused shall be convicted but it shall be declared that he is not criminally responsible for his acts."

Paragraph 2 provides:

> "If, during the trial, the court finds that the accused is mentally disturbed or insane to an extent that precludes prosecution, it shall order his detention, under medical supervision, for a period that it deems necessary."

Paragraph 3 provides:

> "If, as a result of this supervision, the detainee is found to be sound in mind and is certified as such by two physicians appointed by the court, the court shall resume the trial; otherwise, it shall order his confinement in a hospital for the mentally ill."

52. Every person who is arrested must be informed of the reasons for his arrest and the charge to be brought against him. This is emphasized in article 116 of the Code of Criminal Procedure, which stipulates that:

> "The arrest warrant must specify the nature of the offence on the basis of which it was issued, as well as the legal provision under which the offence is punishable and the maximum period for which the accused can be held in custody."

Article 117 of the Code provides:

> "The accused shall be acquainted with, and provided with a copy of, the arrest warrant and the summonses that have been served."

53. Article 113 of the Code further stipulates that:

> "If the accused is arrested under the terms of a warrant and held in custody for more than 24 hours without being questioned or brought before the public prosecutor in accordance with article 7, his arrest shall be regarded as an arbitrary act and the official responsible shall be prosecuted for the offence of deprivation of personal liberty, as provided for in the Penal Code."

Article 13

54. The situation of foreigners in Jordan is governed by Act No. 24 of 1973 concerning the residence and affairs of foreigners, which regulates the manner in which foreigners may enter and leave Jordan. Article 4, paragraph (a), of the Act stipulates that:

> "A foreigner shall be permitted to enter and leave the Kingdom if he holds a valid passport or travel document issued by his country and recognized by the Government of the Kingdom, provided that he has obtained an entry or exit visa, or if he holds a travel document issued by the Government of the Kingdom by virtue of his residence therein without a passport or travel document issued by a specific Government".

The foreigner's entry into or departure from the Kingdom shall be lawful if it takes place by land, sea or air at an official Jordanian border post, seaport or airport, provided that his passport or travel document has been stamped by the passport control officer (art. 5).

55. Under article 18 of the Act:

> "Every foreigner residing or wishing to remain in the country must obtain a residence permit in accordance with the provisions of the Act. He must leave the territory of the Kingdom on expiry of the validity of his residence permit unless he has renewed it."

Article 26 of the Act lists the following categories of foreigners entitled to apply for a residence permit:

(a) Persons who hold a contract of employment with a company, a registered commercial establishment or a recognized employer in the Kingdom and who do not compete with Jordanians in their work (this must be certified by the Ministry of Social Affairs and Labour or by other competent authorities);

(b) Persons who, throughout the duration of their residence, will have a guaranteed and lawful source of subsistence in or outside the Kingdom (this must be established by an officially certified attestation);

(c) Persons who have entered the Kingdom to invest their own funds in commercial or industrial projects approved by the Ministry of the National Economy;

(d) Persons possessing an academic, scientific or vocational qualification or skill that is in short supply in the Kingdom (this must be established by official written certificates from recognized bodies and must be approved by the competent Jordanian authorities);

(e) Officials or employees of diplomatic or consular legations in the Kingdom, subject to reciprocal treatment;

(f) Disabled persons or minors whose sole source of support is resident in the Kingdom;

(g) Students enrolled at Jordanian educational institutions.

56. Foreigners residing in Jordan enjoy the privileges and immunities specified in articles 29 and 30 of the Act.

57. Penalties are also prescribed for infringements of the provisions of the Act. For example, under article 31:

> "Any person who enters the Kingdom in a manner contrary to the provisions of articles 4 and 5 of this Act may be arrested without a warrant and brought before the administrative authority, which may order his deportation, recommend that the Minister grant him a residence permit or refer him to a justice of the peace. If he is convicted by the court, he is liable to imprisonment for a term of one to six months and/or a fine of 10 to 50 dinars."

58. On the recommendation of the administrative authority, the Minister has the right to deport foreigners and to order provisional detention until the deportation procedures have been completed. A foreigner who has previously been deported is not permitted to re-enter the territory of the Kingdom without special authorization from the Minister.

59. Under article 8 of the Jordanian Nationality Act, No. 6 of 1954, as amended by Act No. 22 of 1987:

> "A foreign woman who marries a Jordanian has the right to retain her nationality if she so wishes, in which case she must notify the Minister of the Interior, in writing, to that effect within two years from the date on which she takes up residence in the Hashemite Kingdom of Jordan so that she can be treated in accordance with the provisions of the legislation concerning foreigners and the regulations promulgated pursuant thereto."

Likewise, a Jordanian woman who marries a foreigner has the right to retain her nationality and, if she renounces her Jordanian nationality, she retains the right to recover it if the marriage is dissolved.

60. Minors whose fathers have acquired another nationality for particular reasons and who have not themselves acquired their fathers' new nationality are entitled to Jordanian nationality and must choose between their fathers' nationality and Jordanian nationality by submitting a written declaration within two years from the date on which they come of age (art. 11).

61. The employment of foreigners is regulated by article 7 of the Jordanian Labour Act, as amended by Act No. 25 of 1972:

> "(a) An employer must not employ a foreign worker unless he requires a level of experience or skill that Jordanian workers do not possess, and provided that:
>
> "(i) Arab professionals or experts are accorded precedence over similarly qualified foreigners;
>
> "(ii) A permit is obtained from the Minister of Social Affairs and Labour, or his authorized representative, before the foreigner commences work;

"(b) Foreigners working in the Kingdom at the time of entry into force of this Act shall be permitted to complete their contractual term of employment but shall not be permitted to renew the contract or continue working unless they meet the conditions specified in the preceding paragraph.

"(c) Notwithstanding the provisions of paragraph (a) of this article, the Minister of Social Affairs and Labour, with the concurrence of the Minister for the National Economy, may authorize foreigners to work in the Kingdom if the national income would benefit from their employment."

62. Article 2 (a) of the Jordanian Labour Act No. 28 of 1986 (amending the former Labour Act) stipulates that precedence must be accorded to local workers and, in cases in which local workers are not available, that Arabs should enjoy precedence over foreigners. When an Arab or foreign worker is granted a work permit, he has the same rights and obligations as a local worker. It is evident, therefore, that foreigners in Jordan are treated on a footing of equality with local citizens and enjoy the same rights as Jordanians, with the exception of political rights.

Article 14

63. Article 101 of the Jordanian Constitution stipulates that the courts shall be accessible to all and shall be protected from interference in their affairs (para. 1). Court hearings are conducted in public, unless the court decides to hold them in camera with a view to the maintenance of order or morality (para. 2). In order to protect the Jordanian courts from all forms of interference, article 97 of the Constitution stipulates that:

"The judiciary shall be independent and, in the exercise of its judicial functions, shall be subject to no authority other than that of the law."

Article 98 further stipulates that:

"The judges of the civil and shari'a courts shall be appointed and dismissed by royal decree in accordance with the provisions of the law."

The various types, levels, divisions and jurisdictions of the courts, as well as the manner in which they are administered, are specified in separate legislative enactments.

64. Every person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. Article 206 of the Code of Criminal Procedure (Act No. 9 of 1961) stipulates that no person shall be tried in a criminal case unless the public prosecutor or his representative has officially charged the said person with the crime in question (para. 1). Moreover, the bill of indictment must specify the name of the accused, the date of his arrest, the type of offence with which he is charged, the date on which it was committed, details of the legal provisions on which the charge is based and the name of the person against whom the offence was committed (para. 2).

65. The trial must be held in public, unless the court decides to hold the proceedings in camera in order to safeguard public order or morality in cases relating to sexual offences. In all cases, the court may prohibit specific categories of persons from attending the hearing (art. 213, para. 2, of the Code of Criminal Procedure).

66. The accused must appear before the court without handcuffs or shackles and with only the necessary degree of surveillance. The accused may not be expelled from the court-room during the hearing unless he causes a disturbance that necessitates his removal. The court begins its hearing of witnesses if the accused denies the charge brought against him or refuses to reply to the court's questions. The procedure for hearing the testimony of witnesses is detailed in articles 217-231 of the Code of Criminal Procedure of 1961.

67. These articles specify the procedure for the giving of testimony, the persons who may testify and the manner in which they must be treated during the proceedings. The witnesses for the prosecution can be cross-examined by the accused, either in person or through his legal counsel. The accused also has the right to call his witnesses, who can be cross-examined in the same way as the witnesses for the prosecution. The services of an interpreter are provided free of charge to assist the accused in the event of his being unable to understand or speak the language used in the court.

68. Every person convicted of an offence has the right to apply for a review of the judgement and penalty by a higher court. Article 261, paragraph 1, of the Jordanian Code of Criminal Procedure of 1961 stipulates that:

> "The appeal shall be lodged by submitting a petition to the competent court of appeal, either in person or through the court which handed down the judgement in question, within 15 days from the day following the date on which it was handed down in the presence of the defendant or on which it was notified to him in the event of its being handed down in absentia or under conditions equivalent thereto."

69. Under article 264, paragraph 1, of the Code, appeal proceedings must be conducted on the basis of the hearing of pleas if the sentence against which the appeal was made was the death penalty, hard labour for life or life imprisonment. Other sentences passed by courts of first instance in respect of felonies or misdemeanours, or sentences passed by courts of conciliation, are merely scrutinized unless the court deems it appropriate to hear pleas. Pleas may also be heard if the convicted person's request to that effect is approved by the court, or if they are requested by the public prosecutor. In cases not involving the death penalty, hard labour for life or life imprisonment, evidence need not be reheard unless the court decides otherwise.

70. Under article 270 of the Code, an application for a review in cassation may be made in respect of all criminal judgements and decisions handed down by a court of appeal, as well as all decisions by the public prosecutor that preclude prosecution in criminal cases.

Article 17

71. The rights set out in this article are also recognized under Jordanian law. Article 10 of the Constitution stipulates that homes are inviolable and may be entered only in the circumstances and in the manner prescribed by law.

Article 18 of the Constitution further stipulates that all postal and telegraphic correspondence and telephone communications are confidential and not subject to seizure or censorship, except in the circumstances prescribed by law.

72. Defamation, innuendo and affronts are punishable under Jordanian law. The Jordanian Penal Code of 1960 stipulates as follows:

> Article 188: "Defamation is the imputation of a specific fault to a person, albeit in a sceptical or interrogative manner, in such a way as to detract from his honour and dignity or expose him to hatred and contempt, regardless of whether the said fault constitutes a punishable offence."
>
> Article 189: "Innuendo consists of an attack on the dignity, honour or standing of another person, albeit in a sceptical or interrogative manner, without specifying a particular fault."
>
> Article 190: "An affront consists of any contemptuous insinuation or invective, other than defamation and innuendo, which is directed against the victim by word of mouth in his presence, by way of abuse, in writing or graphic form that is not made public, in a telegraphic or telephone communication or by callous treatment."

73. Defamation is punishable by imprisonment for a term of three months to two years if it is directed against the National Assembly or one of its members in the course of his work, or as a result of action taken by virtue of his work, or if it is directed against an official body, a court of law, a public administration, the army or any public servant during the discharge of his functions or as a result of action taken by virtue thereof (art. 91). Innuendo is punishable by imprisonment for a term of one month to six months, or a fine of 10 to 50 dinars, if it is directed against any of the bodies or persons mentioned in article 191 (art. 193). An affront is punishable by imprisonment for a term of two weeks to six months and/or a fine of 5 to 30 dinars if it is directed against a public servant during the discharge of his functions or as a result of action taken in his official capacity. If the public servant who is the victim of an affront during the discharge of his functions or as a result of action taken in his official capacity is a person vested with public authority, the penalty is imprisonment for a term of one month to one year (art. 196, paras. 1 and 2).

74. The Jordanian Penal Code of 1961 prescribes deterrent penalties for the commission of offences against the family, which are detailed in articles 279 to 325 of the Code.

75. Offences against liberty and honour, as well as the penalties therefor, are also detailed in the Penal Code, article 346 of which stipulates as follows:

> "Anyone who arrests another person and deprives him of his liberty in an unlawful manner shall be punished by a term of up to one year's imprisonment or a fine not exceeding 50 dinars. If the person making the arrest detains the victim by falsely claiming to occupy an official position or to hold a legal warrant for the victim's arrest, he shall be

punished by imprisonment for a term of six months to two years. If the offence is committed against a public servant during the discharge of his functions or as a result of action taken in his official capacity, the penalty shall be imprisonment for a term of six months to three years. Anyone who infringes the inviolability of a home or its appurtenances against the wishes of its occupants, or who remains in the said premises against the wishes of a person who has the right to expel him therefrom, shall be punished by a term of imprisonment not exceeding six months. The penalty shall be imprisonment for a term of one month to one year if the act is committed at night, by the use of violence against persons, by breaking and entering or by the use of weapons or if the act is committed jointly by a number of persons."

76. With regard to searches and the seizure of criminal evidence, article 81 of the Code of Criminal Procedure of 1961 stipulates that:

"Homes may be entered and searched only if an occupant is suspected of having committed an offence, of being an accomplice or otherwise involved therein, of being in possession of evidence pertaining to an offence or of harbouring a person accused of an offence."

77. Article 83 of the Code stipulates as follows:

"1. The search shall take place in the presence of the accused if he is in custody. If he is not in custody, if he refuses or is unable to be present, if he is held in custody outside the area in which the search is to be conducted, or if he is absent, the search shall take place in the presence of the mayor of the local district or his representative or in the presence of two relatives of the accused or two witnesses summoned by the public prosecutor."

Article 86, paragraph 2, further stipulates that, if the person to be searched is a female, a female must be designated to carry out the search.

78. The public prosecutor is empowered to seize any letters, correspondence, newspapers, publications and parcels at post offices, as well as any telegrams at telegraphic offices, and may also monitor telephone conversations, if such action would help to reveal the truth.

79. The Code also permits entry without a warrant under certain conditions. Article 93 of the Code stipulates as follows:

"Any police officer may enter and search any house or premises without a warrant under the following circumstances:

"(i) If he has cause to believe that an offence is being committed, or has recently been committed, in the premises;

"(ii) If the occupant of the premises has requested police assistance;

"(iii) If any person in the premises has requested police assistance and there is cause to believe that an offence is being committed therein;

"(iv) If the police officer is pursuing a person who entered the premises after escaping from a place in which he was lawfully detained."

Article 94 further stipulates that:

"In circumstances other than those specified in the preceding article, no police officer, with or without a warrant, is empowered to enter any premises in order to search for any person or object unless he is accompanied by the mayor of the local district or by two local residents."

80. From the above, it is evident that only the police are empowered to carry out a search, on the basis of an order issued by the local representative of the Department of Public Prosecutions. Even in such a case, the search must be carried out in the presence of the mayor or two other witnesses. Although such searches are normally conducted in daytime, this practice need not be observed if the search warrant has been issued by the military authorities; in such cases, the search is conducted in accordance with the instructions received from the local representative of the Department of Military Prosecutions.

Article 19

81. Freedom of opinion and expression are regarded as inalienable rights of the human person and freedom of opinion is guaranteed by the State, in that every Jordanian is entitled to express his opinion orally, in writing, pictorially or through any other form of expression, since personal liberty is safeguarded under article 7 of the Constitution. Article 15 of the Constitution stipulates as follows:

"1. The State shall guarantee freedom of opinion, and every Jordanian shall be free to express his opinion orally, in writing, pictorially or through any other form of expression permitted by law.

"2. Publication and the press shall be free within the limits of the law.

"3. The publication of newspapers shall not be suspended, nor shall a newspaper's licence be withdrawn, except as provided by law.

"4. In the event of the declaration of martial law or a state of emergency, limited censorship may be legally imposed on newspapers, pamphlets, publication and broadcasting on matters relating to public safety and national defence.

"5. The law shall specify the manner in which control is exercised over the sources of income of newspapers."

82. In practice, freedom of opinion is safeguarded within the limits of the legislation in force and the security and tranquillity of citizens.

83. With regard to the formation of trade unions, associations and clubs, Act No. 23 of 1966, concerning charitable associations and social service organizations, as amended by Act No. 9 of 1971, stipulates that the

establishment of charitable associations and social service organizations must be approved by the Minister of the Interior, who may consult the governor of the region in which the association or organization is to be established.

84. Articles 69 and 70 of the Labour Act No. 21 of 1960 stipulate that a trade union is formed at the request of 30 persons engaged in the same occupation or in occupations that are similar, interrelated or associated from the production standpoint, after the preparation of statutes containing their names. Following their submission, the statutes are examined by the competent department in the Ministry, and the Registrar of Trade Unions then registers the union, provided that its statutes are consistent with the provisions of the Labour Act. The Ministry of Labour provides trade unions with material and moral support in order to help them to achieve the objectives for which they have been established.

85. Persons engaged in the same occupation are not compelled to join the trade union. Those who wish to join are registered as members of the union and those who do not wish to join are not compelled to do so, since they have full freedom of choice. Any trade union has the right to join any international labour organization, subject to approval by the competent minister.

86. Freedom to establish and join clubs is enjoyed under article 4 of the Youth Welfare Act No. 8 of 1987. Application for the establishment of such clubs, specifying the names of 25 persons as members of their constituent bodies, must be submitted to the Ministry of Youth. In Jordan there is nothing to prevent the holding of public meetings to discuss the purposes for which these clubs have been established.

87. The Government was forced to dissolve the political parties in Jordan in 1957 and no application has been submitted to the Government for the establishment of a political party since that time.

88. The various audio-visual information media in Jordan transmit all forms of information and ideas without any territorial restrictions. The media conscientiously endeavour to combat all forms of racial discrimination and carry full reports on the domination, torture, denial and legitimate rights and other inhuman practices to which repressed minorities and peoples are subjected in all parts of the world.

Article 20

89. Any person who advocates national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is punishable under Jordanian law.

90. Article 130 of the Jordanian Penal Code of 1960 contains the following provision:

> "Any person within the kingdom who, in time of war or when the outbreak of war is imminent, engages in propaganda aimed at weakening the feeling of patriotism or inciting racial or religious intolerance shall be punished by hard labour for life."

91. Article 150 of the same Code stipulates that:

> "Any action and any written or spoken communication that gives rise or is intended to give rise to religious or racial bigotry or seeks to instigate strife among the various communities and races that constitute the nation, shall be punished by imprisonment for a term of six months to three years and a fine not exceeding 50 dinars."

Under article 151, paragraph 1:

> "Any person who joins an association established for the purposes mentioned in the preceding article shall be liable to the same penalty."

Paragraph 3 of the same article further stipulates that:

> "In all such cases, an order shall be issued for the dissolution of the association and the confiscation of its assets."

Article 24

92. The Jordanian Penal Code of 1960 safeguards the right of a child to protection from offences that might be committed against him, such as abduction, concealment, substitution, filiation to other than the woman who bore him, suppression of his identity or failure to ensure his adoption without a legitimate or valid reason. Under articles 287 to 290 of the Code, such acts are punishable by imprisonment for a term of two months to three years.

93. Any person who violates the provisions of the law concerning the custody of minors under 15 years of age is liable to a penalty of imprisonment for a term of one month to three years and a fine of 5 to 25 dinars. If the minor is over 15 but under 18 years of age, the penalty is imprisonment for three months to three years.

94. Children and minors are also protected from sexual assault, molestation, abduction, corruption or debauchery, for which articles 292 to 314 of the Code prescribe deterrent penalties that may even involve fixed terms of hard labour.

95. The right of the child to acquire a nationality is protected by article 3 of the Jordanian Nationality Act of 1954, which stipulates as follows:

> "The right to Jordanian nationality is enjoyed by:
>
> "(i) Anyone born to a father holding Jordanian nationality;
>
> "(ii) Anyone born in the Hashemite Kingdom of Jordan to a mother holding Jordanian nationality and a father of unknown or foreign nationality, or whose paternity has not been legally established;
>
> "(iii) Anyone born in the Hashemite Kingdom of Jordan to unknown parents, in so far as, failing evidence to the contrary, any foundling discovered in the Kingdom is deemed to have been born there."

96. Article 10 of the Act stipulates that:

> "Minors whose fathers have acquired another nationality for particular reasons and who have not themselves acquired their fathers' new nationality are entitled to retain their Jordanian nationality and must choose between their fathers' nationality and Jordanian nationality by submitting a written declaration within two years from the date on which they come of age."

97. The above provisions are in keeping with Jordan's international obligations under the Universal Declaration of Human Rights, and particularly article 15 thereof.

98. Article 30, paragraph 1, of the provisional Jordanian Civil Code (Act No. 43 of 1976) stipulates that a human being's legal personality begins from the moment at which he is born live. Article 38 further stipulates that every person must have a name and a patronymic. Under article 43, a person comes of age on attaining the age of 18 Gregorian years.

99. The Jordanian Labour Act No. 21 of 1960 specifies the restrictions that are imposed on the employment of young persons in order to ensure their protection. Article 48 of the Act defines these restrictions as follows:

"(i) No young person under 13 years of age shall be permitted to work in an enterprise.

"(ii) No young person over 13 years of age shall be permitted to work in an enterprise unless the medical registrar has certified his fitness for employment therein.

"(iii) No young person shall be employed in an enterprise for more than six hours per day."

100. In order to protect the safety of young persons, article 46 of the Act further stipulates that no working woman or young person shall be permitted to engage in any type of work which the regulations classify as dangerous for either of them.

101. Any employer or manager of an enterprise who infringes the provisions of the Act or of any regulation promulgated pursuant thereto is liable to a fine of up to 20 dinars in respect of each infringement.

102. The question of juvenile delinquency is governed by the philosophy and principles of social defence, and to foster them the Ministry of Social Development has established the Department of Social Defence, which has branches throughout the country in order to provide the requisite services in densely populated areas. These branches provide all the necessary services for juvenile delinquents, including daily transport to and from schools and vocational training institutes under official supervision. The juvenile delinquents also receive daily amounts of pocket-money and the Director of Social Defence grants them periods of leave on public holidays and special occasions, particularly if they have been of good conduct.

103. A Juvenile Court has been established to hear cases involving juveniles only. The Juveniles Act No. 24 of 1968, which defines a "juvenile" as a person under 18 years of age, stipulates that the death penalty cannot be imposed on a juvenile, regardless of the offence that he has committed. Moreover, criminal proceedings cannot be brought against juveniles under seven years of age, who must be placed in the custody of their father or a trustworthy guardian.

104. The Act made provision for the establishment of two types of institutions for the accommodation of juvenile offenders:

(a) Reformatories for the detention of juvenile offenders on whom final judgement has been passed by a court of law;

(b) Remand homes for the detention of juveniles who are exposed to the dangers of delinquency or vagrancy. These homes are administered by competent official bodies and personnel appointed by the Ministry of Social Development.

105. The main aim of social defence is to deal with the problem of juvenile delinquency through rehabilitation, training and education, in other words through reform rather than punishment.

106. Juveniles who are sentenced to terms of imprisonment are confined in a separate juvenile section of the prison and are segregated from adult prisoners. (This applies only to vicious juvenile detainees who pose a threat to others.)